

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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OSITA EMMANUEL OKOCHA,

Plaintiff,

Case No.: CV 08 2810 (JG) (JMA)

-against-

COHEN & SLAMOWITZ, LLP.,

Defendant.
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**ANSWER OF COHEN & SLAMOWITZ, LLP
WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

Defendant COHEN & SLAMOWITZ, LLP (the “Defendant”), by and through their counsel, The Law Offices of Michael G. Mc Auliffe, Esq., as and for their Answer to the Plaintiff’s complaint, respectfully set forth and represent as follows:

1. Deny the allegations contained in paragraphs 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 46, 48 and the “Wherefore Clause” of the Complaint.

2. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 9 and 47 of the Complaint.

3. Admits the allegations contained in paragraphs 4, 5 and 6 of the Complaint.

4. With regard to the allegations set forth in paragraph 7 of the Complaint, Defendant submits that said documents speak for themselves and accordingly, refer all matters of law and legal interpretation to the Court. Defendant denies the allegation that Plaintiff requested validation on or about October 25, 2008.

5. With regard to the allegations set forth in paragraph 8 of the Complaint, Defendant submits that said documents speak for themselves and accordingly, refer all matters of law and legal interpretation to the Court. To the extent that a response is required, Defendant denies knowledge and information sufficient to form a belief as to the allegations set forth therein.

6. With regard to the allegations set forth in paragraphs 1, 2 of the Complaint, Defendant submits that said paragraphs call for a legal conclusion and refer all matters of law and legal interpretation to the Court. Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

7. Defendant repeats, and reiterates the responses to the allegations set forth and referenced in paragraphs 12, 16, 25, 30, 38, 40 and 45 of the Complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The causes of action set forth in the Complaint fails to state a claim upon which relief may be granted.

9. By virtue of the foregoing, the Complaint should be dismissed, with prejudice.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

10. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "9", inclusive, with the same force and effect as if set forth at length herein.

11. The Plaintiff's causes of action are barred by the applicable statute of limitations.

12. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

12. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "12", inclusive, with the same force and effect as if set forth at length herein.

13. If the Plaintiff has incurred any damages herein, it is as a result of their own culpable conduct, and not that of the Defendants.

14. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A FIRST COUNTERCLAIM AGAINST PLAINTIFF

15. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "14", inclusive, with the same force and effect as if set forth at length herein.

16. Defendant submits that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.

17. By virtue of the foregoing, pursuant to 15 U.S.C. 1692k(a)(3), Defendant is entitled to an award of reasonable attorneys fees and costs incurred herein.

WHEREFORE, Defendant respectfully demands judgment dismissing the Complaint herein in its entirety, and granting Defendant judgment on its counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: Melville, New York
August 28, 2008

Law Offices of Michael G. Mc Auliffe, Esq.
Counsel to Cohen & Slamowitz, LLP.

By: /s/ Michael G. Mc Auliffe
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